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PTO/SB/21 (09-04)

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TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	10/734,671
	Filing Date	December 12, 2003
	First Named Inventor	FOERSTER
	Art Unit	3736
	Examiner Name	Anuradha, Roy
Total Number of Pages in This Submission	Attorney Docket Number	032,290-112

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): - Communication - Copies of 5 Search Reports - Receipt verification postcard
Remarks		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm Name	O'MELVENY & MYERS LLP		
Signature	<i>Diane K. Wong</i>		
Printed name	Diane K. Wong		
Date	June 20, 2006	Reg. No.	54,550

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Signature	<i>Cynthia B. Pacheco</i>		
Typed or printed name	Cynthia B. Pacheco	Date	June 20, 2006

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Patent
Attorney Docket No. 032,290-112

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

FOERSTER

Serial No.: 10/734,671

Filed: December 12, 2003

For: METHOD AND DEVICES FOR
DEFINING AND MARKING TISSUE

Group Art Unit: 3736

Examiner: Anuradha, Roy

COMMUNICATION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants are submitting copies of the five (5) enclosed Search Reports from related applications. Please note that these references have been cited in previously filed Information Disclosure Statements.

Respectfully submitted,

O'MELVENY & MYERS LLP

Dated: June 20, 2006

By: Diane K. Wong
Diane K. Wong
Reg. No. 54,550
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June 20, 2006
Date of Deposit
NB1:686452.1

Cynthia B. Pacheco
Cynthia B. Pacheco

INTERNATIONAL SEARCH REPORT

International Application No
PCT/US 99/30619

A. CLASSIFICATION OF SUBJECT MATTER
IPC 7 A61B17/00 A61B8/00 A61B19/00

According to International Patent Classification (IPC) or to both national classification and IPC

B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)
IPC 7 A61B

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Electronic data base consulted during the international search (name of data base and, where practical, search terms used)

EPO-Internal, INSPEC

C. DOCUMENTS CONSIDERED TO BE RELEVANT

Category *	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
Y A X	WO 98 47430 A (VASCULAR SCIENCE INC) 29 October 1998 (1998-10-29) page 5, line 11 -page 6, line 14 page 8, line 30 -page 11, line 34; figures claim 7	1,7-12, 61-63 3,25-40, 51,52,60 223
Y A	EP 0 534 696 A (ERLEBACHER JAY ;GOLDWEIT RICHARD S (US)) 31 March 1993 (1993-03-31) column 3, line 43 - line 52 column 6, line 44 -column 7, line 55; figures	1,7-12, 61-63 15-22,34

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☒ Further documents are listed in the continuation of box C.

☒ Patent family members are listed in annex.

* Special categories of cited documents:

- "A" document defining the general state of the art which is not considered to be of particular relevance
- "E" earlier document but published on or after the international filing date
- "L" document which may throw doubt on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified)
- "O" document referring to an oral disclosure, use, exhibition or other means
- "P" document published prior to the international filing date but later than the priority date claimed

- "T" later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention
- "X" document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone
- "Y" document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art.
- "Z" document member of the same patent family

Date of the actual completion of the international search

23 August 2000

Date of mailing of the international search report

30.08.2000

Name and mailing address of the ISA

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Tel. (+31-70) 340-6040, Tx 31 851 spo nl,
Fax (+31-70) 340-3016

Authorized officer

Manschot, J

INTERNATIONAL SEARCH REPORT

International Application No

PCT/US 99/30619

C.(Continuation) DOCUMENTS CONSIDERED TO BE RELEVANT		
Category *	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
A	US 5 108 421 A (FOWLER BRADFORD C) 28 April 1992 (1992-04-28) column 5, line 29 -column 6, line 51; figures	1,7-12, 25-28
X	column 1, line 13 - line 30 column 5, line 63 -column 6, line 51	84,85, 92,93, 123
A	US 4 787 391 A (ELEFTERIADES JOHN A) 29 November 1988 (1988-11-29) column 3, line 34 -column 4, line 48; claims; figures	1-3, 7-12, 26-28
A	US 5 645 566 A (BRENNEMAN RODNEY ET AL) 8 July 1997 (1997-07-08) the whole document	1
A	US 5 670 161 A (HEALY KEVIN E ET AL) 23 September 1997 (1997-09-23) abstract; claims; figures	1
A	FR 2 714 284 A (LERICHE HENRI;GERARDIN BENOIT; PETITIER HUBERT) 30 June 1995 (1995-06-30) page 9, line 7 - line 29; figures	1,2, 7-12,23, 24,35, 60-63
X	WO 96 08208 A (BIOPSY MEDICAL INC) 21 March 1996 (1996-03-21) page 17, line 25 -page 18, line 15; claims; figures	84-87, 91,93, 94,100, 110,119, 120,123, 124,127, 128 60,79,82
X	DE 44 03 789 A (SCHERING AG) 10 August 1995 (1995-08-10) column 3, line 55 - line 68 column 7, line 10 - line 35	65,66, 69,71,72
X	DE 43 30 958 A (SCHERING AG) 16 March 1995 (1995-03-16) column 3, line 8 -column 4, line 5 column 9, line 1 - line 20	65,66, 68-72

-/-

INTERNATIONAL SEARCH REPORT

International Application No

PCT/US 99/30619

C.(Continuation) DOCUMENTS CONSIDERED TO BE RELEVANT

Category *	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	DUFRANE P ET AL: "PREBIOPSY LOCALIZATION OF NON-PALPABLE BREAST CANCER" JOURNAL BELGE DE RADIOLOGIE, XX, XX, vol. 73, no. 5, 1 October 1990 (1990-10-01), pages 401-404, XP000513990 the whole document	65,67
X	EP 0 769 281 A (UNITED STATES SURGICAL CORP) 23 April 1997 (1997-04-23) column 10, line 12 -column 12, line 14; figures	84,85, 88,91
X	US 4 230 123 A (HAWKINS JR IRVIN F) 28 October 1980 (1980-10-28) column 2, line 65 -column 4, line 9; figures	84,85, 88,89
A	US 5 394 886 A (NABAI HOSSEIN ET AL) 7 March 1995 (1995-03-07) the whole document	224

INTERNATIONAL SEARCH REPORT

International application No.
PCT/US99/13909

A. CLASSIFICATION OF SUBJECT MATTER

IPC(6) : A61B 5/00

US CL : 600/562, 565, 567

According to International Patent Classification (IPC) or to both national classification and IPC

B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)

U.S. : 600/562, 565, 567

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Electronic data base consulted during the international search (name of data base and, where practicable, search terms used)

WEST

Search Terms: biopsy localization, bioabsorbable, biopsy site, hemostasis

C. DOCUMENTS CONSIDERED TO BE RELEVANT

Category*	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X --- Y	US 5,487,392 A (HAAGA) 30 January 1996, col. 7 lines 58-67 to col. 8 lines 1-9.	1 ----- 2-57
Y, P	US 5,807,276 A (RUSSIN) 15 September 1998, col. 7 lines 22-24.	2-55
Y, P	US 5,795,308 A (RUSSIN) 18 August 1998, col. 7 lines 26-33.	56, 57

☐ Further documents are listed in the continuation of Box C.☐ See patent family annex.

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| *P* document published prior to the international filing date but later than the priority date claimed | |

Date of the actual completion of the international search

04 OCTOBER 1999

Date of mailing of the international search report

03 NOV 1999

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BRIAN SZMAL

Telephone No. (703) 308-3737



European Patent
Office

**SUPPLEMENTARY
PARTIAL EUROPEAN SEARCH REPORT**

Application Number

which under Rule 45 of the European Patent Convention EP 99 93 5335
shall be considered, for the purposes of subsequent
proceedings, as the European search report

DOCUMENTS CONSIDERED TO BE RELEVANT

Category	Citation of document with indication, where appropriate, of relevant passages	Relevant to claim	CLASSIFICATION OF THE APPLICATION (Int.Cl.6)
X	US 5 195 988 A (HAAGA ET AL) 23 March 1993 (1993-03-23) * column 4, line 3 - line 19 * * column 7, line 58 - column 8, line 8 * -----	1-4, 14	A61B5/00
X	US 5 487 392 A (HAAGA ET AL) 30 January 1996 (1996-01-30) * column 5, line 51 - column 6, line 1; figure 3 * -----	1-4, 11, 14	

**TECHNICAL FIELDS
SEARCHED (Int.Cl.6)**

A61B

The supplementary search report has been based on the last set of claims valid
and available at the start of the search.

INCOMPLETE SEARCH

The Search Division considers that the present application, or some or all of its claims, does/do
not comply with the EPC to such an extent that a meaningful search into the state of the art cannot
be carried out, or can only be carried out partially, for the following claims:

Claims searched completely :

Claims searched incompletely :

Claims not searched :

Reason for the limitation of the search:

see sheet C

1

EPO FORM 1503 (01.02.2005)

Place of search The Hague	Date of completion of the search 27 October 2005	Examiner Mayer-Martenson, E
CATEGORY OF CITED DOCUMENTS X : particularly relevant if taken alone Y : particularly relevant if combined with another document of the same category A : technological background O : non-written disclosure P : intermediate document T : theory or principle underlying the invention E : earlier patent document, but published on, or after the filing date D : document cited in the application L : document cited for other reasons & : member of the same patent family, corresponding document		

ANNEX TO THE EUROPEAN SEARCH REPORT ON EUROPEAN PATENT APPLICATION NO.

EP 99 93 5335

This annex lists the patent family members relating to the patent documents cited in the above-mentioned European search report.
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27-10-2005

Patent document cited in search report		Publication date	Patent family member(s)	Publication date
US 5195988	A	23-03-1993	NONE	
US 5487392	A	30-01-1996	CA 2175831 A1	26-05-1995
			DE 69432525 D1	22-05-2003
			DE 69432525 T2	01-04-2004
			EP 0744916 A1	04-12-1996
			JP 9500565 T	21-01-1997
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			US 5718237 A	17-02-1998



European Patent
Office

**LACK OF UNITY OF INVENTION
SHEET B**

Application Number
EP 99 93 5335

The Search Division considers that the present European patent application does not comply with the requirements of unity of invention and relates to several inventions or groups of inventions, namely:

1. claims: 1-13

biopsy localisation device with bioabsorbable element being palpable

2. claims: 14-16

biopsy localisation device with bioabsorbable element having roughened margins



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Département à
La Haye
Division de la
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A.A. Thornton & Co.,
235 High Holborn
London WC1V 7LE
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Datum/Date

05.12.03

Zeichen/Ref./Réf.

PAC/ags/18198A

Anmeldung Nr./Application No./Demande n°/Patent Nr./Patent No./Brevet n°.

03075084.8-1265-

Anmelder/Applicant/Demandeur/Patentinhaber/Proprietor/Titulaire

ETHICON ENDO-SURGERY, INC.

COMMUNICATION

The European Patent Office herewith transmits as an enclosure the European search report for the above-mentioned European patent application.

If applicable, copies of the documents cited in the European search report are attached.

☐ Additional set(s) of copies of the documents cited in the European search report is (are) enclosed as well.

The following specifications given by the applicant have been approved by the Search Division:

☐ abstract

☐ title

☒ The abstract was modified by the Search Division and the definitive text is attached to this communication.

The following figure will be published together with the abstract: 18, 19, 20.

REFUND OF THE SEARCH FEE

If applicable under Article 10 Rules relating to fees, a separate communication from the Receiving Section on the refund of the search fee will be sent later.





DOCUMENTS CONSIDERED TO BE RELEVANT			
Category	Citation of document with indication, where appropriate, of relevant passages	Relevant to claim	CLASSIFICATION OF THE APPLICATION (Int.Cl.7)
X	US 5 195 988 A (HAAGA) 23 March 1993 (1993-03-23) * figures 1-3 *	1-4	A61B19/00
X	--- US 5 433 751 A (INOTEB) 18 July 1995 (1995-07-18) * abstract *	1-9	
X	--- US 4 356 572 A (GUILLEMIN) 2 November 1982 (1982-11-02) * example 2 *	1-9	
X	--- US 5 085 629 A (GOLDBERG) 4 February 1992 (1992-02-04) * abstract *	1-4,7,8	
X	--- US 5 192 300 A (FOWLER) 9 March 1993 (1993-03-09) * column 5, line 61 - line 65; figures 8,9 *	1-4,7	
A	--- US 3 194 239 A (SULLIVAN) 13 July 1965 (1965-07-13) * column 2, paragraph 3 - paragraph 4; figures 1-4 *	1,5	TECHNICAL FIELDS SEARCHED (Int.Cl.7) A61B A61F
A	--- EP 0 481 685 A (COOK) 22 April 1992 (1992-04-22) * figures 5-7 *	1	
A	--- US 5 127 916 A (SPENCER) 7 July 1992 (1992-07-07) -----		
The present search report has been drawn up for all claims			
Place of search THE HAGUE		Date of completion of the search 19 November 2003	Examiner Barton, S
CATEGORY OF CITED DOCUMENTS X : particularly relevant if taken alone Y : particularly relevant if combined with another document of the same category A : technological background O : non-written disclosure P : intermediate document T : theory or principle underlying the invention E : earlier patent document, but published on, or after the filing date D : document cited in the application L : document cited for other reasons & : member of the same patent family, corresponding document			

**ANNEX TO THE EUROPEAN SEARCH REPORT
ON EUROPEAN PATENT APPLICATION NO.**

EP 03 07 5084

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19-11-2003

Patent document cited in search report	Publication date	Patent family member(s)	Publication date
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US 5085629 A	04-02-1992	AU 633361 B2	28-01-1993
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		US 5478352 A	26-12-1995

EPO FORM P0459

For more details about this annex : see Official Journal of the European Patent Office, No. 12/82

**ANNEX TO THE EUROPEAN SEARCH REPORT
ON EUROPEAN PATENT APPLICATION NO.**

EP 03 07 5084

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The members are as contained in the European Patent Office EDP file on
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19-11-2003

Patent document cited in search report		Publication date	Patent family member(s)	Publication date
US 5192300	A		US 5601602 A	11-02-1997
			US 5591205 A	07-01-1997
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US 5127916	A	07-07-1992	AU 1259492 A	27-08-1992
			WO 9212678 A1	06-08-1992

INTERNATIONAL SEARCH REPORT

Int. Application No
PCT/US 95/11558

A. CLASSIFICATION OF SUBJECT MATTER
IPC 6 A61B19/00

According to International Patent Classification (IPC) or to both national classification and IPC

B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)
IPC 6 A61B A61F

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Electronic data base consulted during the international search (name of data base and, where practical, search terms used)

C. DOCUMENTS CONSIDERED TO BE RELEVANT

Category *	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to class No.
X	EP,A,0 146 699 (SULZER) 3 July 1985	1,2,13, 15,16, 19,20, 22,23
Y	see page 3, last paragraph - page 4, paragraph 3; figures 1,2	3,4,7,8, 10,17, 21,24, 27,28
X	EP,A,0 293 605 (MEDITECH) 7 December 1988 see column 5, last paragraph see column 8, last paragraph - column 9, paragraph 1; figures 3,10 --- -/-	1,2,4, 7-12

☒ Further documents are listed in the continuation of box C.

☒ Patent family members are listed in annex.

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- "P" document published prior to the international filing date but later than the priority date claimed

- "T" later document published after the international filing date or priority date and not in conflict with the application but cited to undermine the principle or theory underlying the invention
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- "Y" document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art
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Date of the actual completion of the international search

17 January 1996

Date of mailing of the international search report

26. 01.96

Name and mailing address of the ISA
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INTERNATIONAL SEARCH REPORT

International Application No.
PCT/US 95/11558

C.(Continuation) DOCUMENTS CONSIDERED TO BE RELEVANT		
Category	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	EP,A,0 350 043 (PALESTRANT) 10 January 1990 see column 10, paragraph 3; figures 4-6 ---	1,2,4,7, 10-13, 19-23, 25-27
X	US,A,4 693 237 (HOFFMAN) 15 September 1987 see claims 1-4 ---	1,15,19, 22,23
X	US,A,4 682 606 (DECAPRIO) 28 July 1987 see abstract; figures 3,16 ---	1,19
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INTERNATIONAL SEARCH REPORT

International application No.

PCT/US95/11558

Box I Observations where certain claims were found unsearchable (Continuation of item 1 of first sheet)

This international search report has not been established in respect of certain claims under Article 17(2)(a) for the following reasons:

1. ☒ Claims Nos.: 29-34
because they relate to subject matter not required to be searched by this Authority, namely:
PCT Rule 39.1 (1v)
2. ☐ Claims Nos.:
because they relate to parts of the international application that do not comply with the prescribed requirements to such an extent that no meaningful international search can be carried out, specifically:
3. ☐ Claims Nos.:
because they are dependent claims and are not drafted in accordance with the second and third sentences of Rule 6.4(a).

Box II Observations where unity of invention is lacking (Continuation of item 2 of first sheet)

This International Searching Authority found multiple inventions in this international application, as follows:

1. ☐ As all required additional search fees were timely paid by the applicant, this international search report covers all searchable claims.
2. ☐ As all searchable claims could be searched without effort justifying an additional fee, this Authority did not invite payment of any additional fee.
3. ☐ As only some of the required additional search fees were timely paid by the applicant, this international search report covers only those claims for which fees were paid, specifically claims Nos.:
4. ☐ No required additional search fees were timely paid by the applicant. Consequently, this international search report is restricted to the invention first mentioned in the claims; it is covered by claims Nos.:

Remark on Protest

- ☐ The additional search fees were accompanied by the applicant's protest.
☐ No protest accompanied the payment of additional search fees.

INTERNATIONAL SEARCH REPORT

information on patent family members

International Application No
PCT/US 95/11558

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late Application No

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